

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 3083 of 1990

For Approval and Signature:

Hon'ble MR.JUSTICE N.N.MATHUR

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

BHANUPRASAD JAYSHANKER PANDYA

Versus

DISTRICT EDUCATION OFFICER

Appearance:

MS Mamta R Vyas for Ms. DAXA R VYAS for Petitioner
GOVERNMENT PLEADER for Respondent No. 1
MR RM DESAI for Respondent No. 2, 4
MR RA MISHRA for Respondent No. 3

CORAM : MR.JUSTICE N.N.MATHUR

Date of decision: 25/07/97

ORAL JUDGEMENT

By way of this Special Civil Application, the petitioner seeks direction to the respondent to pay reasonable interest on delayed payment of pension and gratuity amount. The claim of the petitioner is thus-

- (a) Interest on arrears of pay during the period from 1.1.1973 to 10.11.1982 which was paid on 31.1.1983. - Rs. 17,185.25
- (b) The amount of gratuity payable on 10.11.19982 was paid as late as on 1.5.1989 - Rs. 14,436.00
- (c) Difference of pension amount payable in the year 1982 was in fact paid on 1.5.1989 (as against Rs.419/-, the petitioner was paid Rs.130/- by way of interim pension) - Rs. 47,251.50
- (d) Commuted pension of Rs.17,984.04 which was required to be paid on the retirement i.e. on 10.11.1972 was paid on 1.5.1989.

2. It is contended by Ms. Mamta R Vyas, learned Advocate for the petitioner that there is a culpable delay in settling the pension, inasmuch as that this Court in Special Civil Application No.3641/82, by order dated 2.3.1984 (Coram: A P Ravani, J.) expressed hope that the authorities concerned shall decide the petitioner's application with respect to settlement of pension without waiting for the decision of this Court.

3. Mr Dhaval C Dave, learned AGP submits that since the issue with respect to the condonation of break in service was pending in the Court, no order was passed with respect to pension.

4. There is no substance in the say of the learned AGP as it was made clear by order dated 2.3.1984 that the authorities shall decide the application pending before them without waiting for the decision of this Court. In view of this, I am in complete agreement with the contention raised by the learned Advocate for the petitioner that there is a culpable delay on the part of the respondent in dealing with the payment of pension as far as items No.(a), (b) and (c) referred to above are concerned. So far as the interest mentioned in item (d) is concerned, the payment of interest is not possible thereon as the petitioner has claimed interest on the delayed pension.

5. In view of the aforesaid, this Special Civil Application is allowed. The respondent is directed to pay the interest on item No. (a) at the rate of 6% and on items (b) and (c), at the rate of 9%. This payment shall be made within a period of 3 months from the date of receipt of the writ. The writ be sent immediately.

Rule made absolute to the aforesaid extent.

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msp.